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**Atlanticare Management LLC d/b/a/ Putnam Ridge  
Nursing Home and 1199 SEIU United  
Healthcare Workers East.** Cases 02–CA–  
177329, 02–CA–193189, 02–CA–0198370, 02–  
CA–206253, and 02–CA–210245

January 27, 2022

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN MCFERRAN AND MEMBERS RING  
AND PROUTY

The General Counsel seeks a default judgment in this case on the grounds that Atlanticare Management LLC d/b/a Putnam Ridge Nursing Home (the Respondent) has failed to file an answer to the compliance specification or the amended compliance specification.

On February 11, 2020, the Board issued a Decision and Order that, among other things, ordered the Respondent to make Catherine Thomas whole for any loss of earnings and other benefits suffered as a result of the discrimination against her, rescind the unilateral reduction of unit employees' annual merit wage increases, make affected employees whole for any loss of earnings and other benefits suffered as a result of the reduction of their annual merit wage increases, compensate them for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 2 a report allocating the backpay awards to the appropriate calendar years for each employee.<sup>1</sup> On July 8, 2020, the United States Court of Appeals for the Second Circuit entered its judgment enforcing the Board's Order.<sup>2</sup>

A controversy having arisen over the amount of backpay due the discriminatees, on August 31, 2021,<sup>3</sup> the Regional Director issued a compliance specification and notice of hearing alleging the amount of backpay and other benefits owed the discriminatees under the terms of the Board's Order. The compliance specification notified the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

On October 6, the Regional Director issued an amended compliance specification and notice of hearing. Again,

the Respondent failed to answer the properly served amended compliance specification.

By letter dated October 28, the Region advised the Respondent that no answer to the amended compliance specification had been received and that unless an answer was filed by November 4, a motion for default judgment would be filed. To date, the Respondent has failed to file an answer.

On November 8, the General Counsel filed with the Board a Motion to Transfer and Continue Matter Before the Board and for Default Judgment with exhibits attached. On November 10, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the amended compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>4</sup>

**Ruling on the Motion for Default Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the amended compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the amended compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due is as stated in the amended compliance specification, and we will order the Respondent to pay those amounts to the discriminatees, plus interest accrued to the date of payment. Further, we find that additional backpay continues to accrue until the Respondent corrects the wage rate of the bargaining unit employees to what those rates should have been but for the Respondent's unlawful changes to the merit wage increases.

<sup>1</sup> 369 NLRB No. 28.

<sup>2</sup> No. 20-1129.

<sup>3</sup> All subsequent dates are in 2021 unless otherwise indicated.

<sup>4</sup> Member Wilcox is recused and took no part in the consideration of this case.

## ORDER

The National Labor Relations Board orders that the Respondent, Atlanticare Management LLC d/b/a Putnam Ridge Nursing Home, its officers, agents, successors, and assigns shall make whole the discriminatees named below by paying them the amounts opposite their names, plus additional net backpay that accrues until the Respondent corrects the unlawful wage rates, and interest accrued to the date of payment, as prescribed in *New Horizons*, 283 NLRB 1173 (1987), and compounded daily as set forth in *Kentucky River Medical Center*, 356 NLRB 6 (2010), minus tax withholdings required by Federal and State laws.<sup>5</sup> Additionally, the Respondent shall compensate the discriminatees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 2 a report allocating the backpay awards to the appropriate calendar years for each employee, as set forth in the Board's Decision and Order and described in the amended compliance specification.

Thomas, Catherine	\$8,910
Alava Larreta, Rosanda	\$1,618.50
Alvarado-Gonzalez, Jennie	\$936.00
Andrew, Damiana	\$4,563.00
Avellaneda-Caceras, Karla	\$1,072.50
Awrytis, Denise	\$5,070.00
Barcenas, Tina	\$2,320.50
Bermudez, Jose	\$741.00
Bonnick-Richards, Angela	\$4,309.50
Breidhaupt, Alice	\$5,694.00
Brill, Crystal	\$3,822.00
Brooks, Tiesha	\$2,983.50
Brophy, Kathleen	\$526.50
Cacchioli, Laura	\$2,184.00
Caceres, Ana	\$136.50
Campoverde, Ana	\$448.50
Cardenas, Lucila	\$2,145.00
Caruth, Cheryl-Ann	\$4,777.50
Castellana, Shaun	\$2,125.50
Castellano, Laura	\$2,632.50
Celestin, Niquese	\$3,861.00
Colosanti, Tracey	\$1,950.00
Coryea, Sharon	\$13,533.00
Davidson, Karen	\$5,440.50

De Los Rios, Dalia	\$2,106.00
De Saint-Leon, Estela	\$1,010.10
Delgado, Julian	\$1,170.00
Delos Santos, Emelita	\$1,833.00
Donnelly, Kyleann	\$4,387.50
Duah, Agyeman	\$1,435.20
Dudley, Miranda	\$3,588.00
Durso, Jessica	\$3,478.80
Fletcher, Krystal	\$1,064.70
Futrell, Elaine	\$2,866.50
Galoppe, Maria	\$2,398.50
Gloyd, Barbara	\$2,710.50
Graham, Danielle	\$3,100.50
Grant, Joshua	\$7,254.00
Gronke, Jessica	\$4,446.00
Hernandez, Luz	\$4,485.00
Hernandez, Yarina	\$830.70
Hurley, Angela	\$46.80
Hurley, Rita	\$630.24
Hussain, Shamsie	\$5,011.50
Hutton, Danneth	\$2,515.50
Ilg, Timothy	\$7,761.00
Jackson, Leonard	\$136.50
Johnson, Heidi	\$7,839.00
Johnson-Rega, Christine	\$3,744.00
Kennedy, Richard	\$234.00
Kimbourgh, Tifarra	\$2,359.50
King, Marlene	\$2,169.44
Korty, Sandra	\$3,061.50
Laing, Roslyn	\$1,981.20
Latimer, Philip	\$5,031.00
Lee, Priscilla	\$1,716.00
Leist, Jean Marie	\$2,652.00
Lemus, Oscar	\$2,667.60
Lewis, Jennifer	\$2,418.00
McCormack, Susan	\$3,471.00
McGuinness, Regan	\$9,516.00
McTighe, Wendy	\$3,549.00
Miller, Robert	\$2,223.00
Musgrave, Courtney	\$343.20
O'Connor, Loraine	\$4,894.50
Oehl, Kathrin	\$3,627.00
Oliveira, Karen	\$2,476.50
Olivo, Cynthia	\$1,774.50
Pellicier, Suzanne	\$4,383.60
Perez Estrada, Gregorio Salvador	\$2,496.00
Perez, Julian	\$1,790.10
Perez, Melanie	\$1,170.00
Portillo Lopez, Catalina	\$2,125.50
Ricketts, Melissa	\$292.50
Rodriguez, Michael	\$1,064.70
Rosado, Franz	\$81.90

<sup>5</sup> We note that Exhibit 3 to the amended compliance specification, which summarizes the Respondent's backpay liability for each discriminatee, did not include the backpay due employee Lupita Sanchez-Torke. However, the Respondent's backpay liability for Sanchez-Torke is alleged in the amended compliance specification. We therefore conclude that her omission from the Exhibit 3 summary was an inadvertent error, which we correct here. Cf. *SK USA Cleaners, Inc.*, 365 NLRB No. 20, slip op. at 4 fn. 11 (2017) (correcting calculation error in amended compliance specification).

Sampson, Elyne	\$5,089.50
Sanchez-Torke, Lupita	\$1,560.00
Schlemmer, Diane	\$5,869.50
Scott, Jayson	\$4,309.50
Scully, Nicole	\$3,841.50
Serrano, Dalila	\$1,240.20
Sherwood, Lacey	\$1,415.70
Shultz, Terri	\$877.50
Staar, Victoria	\$234.00
Swart, Laura	\$1,029.60
Tate-Palinakas, Cathleen	\$195.00
Tejada-Rivera, Julio Cesar	\$4,102.80
Toranzo, Giovanna	\$5,109.00
Tyer, Latonya	\$5,928.00
Uhles, Arlene	\$1,918.80
Van Nostrand, Annie	\$2,632.50
Walters, Andrew	\$175.50
Zinzer, Maureen	\$4,212.00

Dated, Washington, D.C. January 27, 2022

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Lauren McFerran, Chairman

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John F. Ring, Member

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David M. Prouty, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD